

AMENDED IN ASSEMBLY JANUARY 23, 2006

AMENDED IN ASSEMBLY APRIL 25, 2005

AMENDED IN ASSEMBLY APRIL 6, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 802

Introduced by Assembly Member Wolk

February 18, 2005

An act to amend Section 65302 of the Government Code, relating to local planning.

LEGISLATIVE COUNSEL'S DIGEST

AB 802, as amended, Wolk. Land use: water supply.

~~The~~

(1) *The Planning and Zoning Law requires a city or county general plan to include specified mandatory elements, including a conservation element that considers, among other things, the effect of development within the jurisdiction, as described in the land use element, on natural resources located on public lands, including military installations, and provides that the conservation element may also cover, among other things, flood control.*

The bill would instead require, *upon the adoption of the general plan, the amendment of the conservation element, or the amendment of 2 or more elements of the general plan, on or after January 1, 2007*, the conservation element of the general plan to cover flood management and to consider, among other things, the existing water supply and the possible means of using flood water to supplement that supply. By imposing new duties on local public officials, the bill would create a state-mandated local program.

The

(2) *The Planning and Zoning Law also requires that a city or county general plan contain a safety element for the protection of the community from any unreasonable risks associated with the effects of seismically induced surface rupture, ground shaking, ground failure, tsunami, seiche, and dam failure; slope instability leading to mudslides and landslides, subsidence, liquefaction, and other seismic, geologic, and fire hazards.*

This bill would also require, upon the adoption or revision of a city's or county's general plan, the amendment of the safety element, or the amendment of 2 or more elements of the general plan, on or after January 1, 2007, to include, among other things, assessments of both the risk to life and property from reasonably foreseeable flooding and the local flood and water supply infrastructure and an analysis of how that infrastructure can be designed or altered to minimize the risk of flooding.

(3) *The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 65302 of the Government Code is
2 amended to read:

3 65302. The general plan shall consist of a statement of
4 development policies and shall include a diagram or diagrams and
5 text setting forth objectives, principles, standards, and plan
6 proposals. The plan shall include the following elements:

7 (a) A land use element that designates the proposed general
8 distribution and general location and extent of the uses of the land
9 for housing, business, industry, open space, including agriculture,
10 natural resources, recreation, and enjoyment of scenic beauty,
11 education, public buildings and grounds, solid and liquid waste
12 disposal facilities, and other categories of public and private uses

1 of land. The land use element shall include a statement of the
2 standards of population density and building intensity
3 recommended for the various districts and other territory covered
4 by the plan. The land use element shall identify areas covered by
5 the plan which are subject to flooding and shall be reviewed
6 annually with respect to those areas. The land use element shall
7 also do all of the following:

8 (1) Designate in a land use category that provides for timber
9 production those parcels of real property zoned for timberland
10 production pursuant to the California Timberland Productivity Act
11 of 1982, Chapter 6.7 (commencing with Section 51100) of Part 1
12 of Division 1 of Title 5.

13 (2) Consider the impact of new growth on military readiness
14 activities carried out on military bases, installations, and operating
15 and training areas, when proposing zoning ordinances or
16 designating land uses covered by the general plan for land, or other
17 territory adjacent to military facilities, or underlying designated
18 military aviation routes and airspace.

19 (A) In determining the impact of new growth on military
20 readiness activities, information provided by military facilities
21 shall be considered. Cities and counties shall address military
22 impacts based on information from the military and other sources.

23 (B) The following definitions govern this paragraph:

24 (i) "Military readiness activities" mean all of the following:

25 (I) Training, support, and operations that prepare the men and
26 women of the military for combat.

27 (II) Operation, maintenance, and security of any military
28 installation.

29 (III) Testing of military equipment, vehicles, weapons, and
30 sensors for proper operation or suitability for combat use.

31 (ii) "Military installation" means a base, camp, post, station,
32 yard, center, home port facility for any ship, or other activity under
33 the jurisdiction of the United States Department of Defense as
34 defined in paragraph (1) of subsection (e) of Section 2687 of Title
35 10 of the United States Code.

36 (b) A circulation element consisting of the general location and
37 extent of existing and proposed major thoroughfares, transportation
38 routes, terminals, any military airports and ports, and other local
39 public utilities and facilities, all correlated with the land use
40 element of the plan.

1 (c) A housing element as provided in Article 10.6 (commencing
2 with Section 65580).

3 (d) (1) A conservation element for the conservation,
4 development, and utilization of natural resources including water
5 and its hydraulic force, forests, soils, rivers and other waters,
6 harbors, fisheries, wildlife, minerals, and other natural resources.
7 The conservation element shall consider the effect of development
8 within the jurisdiction, as described in the land use element, on
9 natural resources located on public lands, including military
10 installations. That portion of the conservation element including
11 waters shall be developed in coordination with any countywide
12 water agency and with all district and city agencies that have
13 developed, served, controlled or conserved water for any purpose
14 for the county or city for which the plan is prepared. Coordination
15 shall include the discussion and evaluation of any water supply
16 and demand information described in Section 65352.5, if that
17 information has been submitted by the water agency to the city or
18 county.

19 (2) The conservation element may also cover the following:

20 (A) The reclamation of land and waters.

21 (B) Prevention and control of the pollution of streams and other
22 waters.

23 (C) Regulation of the use of land in stream channels and other
24 areas required for the accomplishment of the conservation plan.

25 (D) Prevention, control, and correction of the erosion of soils,
26 beaches, and shores.

27 (E) Protection of watersheds.

28 (F) The location, quantity and quality of the rock, sand and
29 gravel resources.

30 ~~(3) The~~ *Upon the adoption of a city's or county's general plan,*
31 *the amendment of the conservation element, or the amendment of*
32 *two or more elements of the general plan, on or after January 1,*
33 *2007, the conservation element shall cover flood management*
34 *which shall include a consideration of both of the following:*

35 ~~(A) The risk to life and property from reasonably foreseeable~~
36 ~~floodings.~~

37 ~~(B) The local flood and water supply infrastructure and an~~
38 ~~explanation of how the proposed plan fits within or requires~~
39 ~~alteration of that existing infrastructure.~~

40 ~~(C)~~

1 (A) The existing water supply and possible means of using
2 floodwater to supplement that supply.

3 ~~(D)~~

4 (B) The potential means of using floodwater to aid in the
5 recharge of groundwater supplies.

6 ~~(E) Coordination with, and possible effects on, the general plan's~~
7 ~~land use element.~~

8 ~~(F) Coordination with state and local agencies involved in flood~~
9 ~~management issues.~~

10 ~~(G) Stormwater retention and drainage.~~

11 ~~(H) Anything else deemed necessary to implement effective~~
12 ~~flood management measures.~~

13 ~~The conservation element shall be prepared and adopted no later~~
14 ~~than December 31, 1973.~~

15 (e) An open-space element as provided in Article 10.5
16 (commencing with Section 65560).

17 (f) A noise element which shall identify and appraise noise
18 problems in the community. The noise element shall recognize the
19 guidelines established by the Office of Noise Control in the State
20 Department of Health Services and shall analyze and quantify, to
21 the extent practicable, as determined by the legislative body,
22 current and projected noise levels for all of the following sources:

23 (1) Highways and freeways.

24 (2) Primary arterials and major local streets.

25 (3) Passenger and freight online railroad operations and ground
26 rapid transit systems.

27 (4) Commercial, general aviation, heliport, helistop, and military
28 airport operations, aircraft overflights, jet engine test stands, and
29 all other ground facilities and maintenance functions related to
30 airport operation.

31 (5) Local industrial plants, including, but not limited to, railroad
32 classification yards.

33 (6) Other ground stationary noise sources, including, but not
34 limited to, military installations, identified by local agencies as
35 contributing to the community noise environment.

36 Noise contours shall be shown for all of these sources and stated
37 in terms of community noise equivalent level (CNEL) or day-night
38 average level (L_{dn}). The noise contours shall be prepared on the
39 basis of noise monitoring or following generally accepted noise

1 modeling techniques for the various sources identified in
2 paragraphs (1) to (6), inclusive.

3 The noise contours shall be used as a guide for establishing a
4 pattern of land uses in the land use element that minimizes the
5 exposure of community residents to excessive noise.

6 The noise element shall include implementation measures and
7 possible solutions that address existing and foreseeable noise
8 problems, if any. The adopted noise element shall serve as a
9 guideline for compliance with the state's noise insulation standards.

10 (g) A safety element for the protection of the community from
11 any unreasonable risks associated with the effects of seismically
12 induced surface rupture, ground shaking, ground failure, tsunami,
13 seiche, and dam failure; slope instability leading to mudslides and
14 landslides; subsidence, liquefaction and other seismic hazards
15 identified pursuant to Chapter 7.8 (commencing with Section 2690)
16 of the Public Resources Code, and other geologic hazards known
17 to the legislative body; flooding; and wild land and urban fires.
18 ~~The safety element shall include mapping of known seismic and
19 other geologic hazards. It shall also address evacuation routes,
20 military installations, peakload water supply requirements, and
21 minimum road widths and clearances around structures, as those
22 items relate to identified fire and geologic hazards. and urban fires.~~

23 (1) *The safety element shall include both of the following:*

24 (A) *Mapping of known flood, seismic, and other geologic*
25 *hazards. Mapping of known flood areas shall be included in the*
26 *safety element after the maps have been made available and when*
27 *any of the following occur: the safety element is amended, or two*
28 *or more general plan elements are amended.*

29 (B) *Evacuation routes, military installations, peak load water*
30 *supply requirements, and minimum road widths and clearances*
31 *around structures, as those items relate to identified fire, flood,*
32 *and geologic hazards.*

33 (2) *For protection of the community from flooding, upon the*
34 *adoption or revision of a city's or county's general plan, the*
35 *amendment of the safety element, or the amendment of two or more*
36 *elements of the general plan, on or after January 1, 2007, the*
37 *safety element shall also include all of the following:*

38 (A) *An assessment of the risk to life and property from*
39 *reasonably foreseeable flooding. For purposes of this section,*

1 “reasonably foreseeable flooding” means flooding that has a one
2 in two hundred chance of occurring in any given year.

3 (B) An assessment of the local flood and water supply
4 infrastructure and an analysis of how the infrastructure can be
5 designed or altered to minimize the risk of flooding.

6 (C) Statements as to how the safety element will be coordinated
7 with the general plan’s land use element.

8 (D) Identification of, and provisions for, coordination with,
9 state and local agencies involved in flood management issues.

10 (E) Planning for effective storm water retention and drainage.

11 (F) Anything else deemed necessary to implement effective flood
12 management and public safety.

13 ~~(H)~~

14 (3) Prior to the periodic review of its general plan and prior to
15 preparing or revising its safety element, each city and county shall
16 consult the Division of Mines and Geology of the Department of
17 Conservation and the Office of Emergency Services for the purpose
18 of including information known by and available to the department
19 and the office required by this subdivision.

20 ~~(2)~~

21 (4) To the extent that a county’s safety element is sufficiently
22 detailed and contains appropriate policies and programs for
23 adoption by a city, a city may adopt that portion of the county’s
24 safety element that pertains to the city’s planning area in
25 satisfaction of the requirement imposed by this subdivision.

26 SEC. 2. If the Commission on State Mandates determines that
27 this act contains costs mandated by the state, reimbursement to
28 local agencies and school districts for those costs shall be made
29 pursuant to Part 7 (commencing with Section 17500) of Division
30 4 of Title 2 of the Government Code.